
By: **Delegates Krysiak, McIntosh, and Rosenberg**
Introduced and read first time: February 9, 2001
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Home Ownership Counseling Program**

3 FOR the purpose of creating the Maryland Home Ownership Counseling Program;
4 defining certain terms; requiring certain individuals to participate in certain
5 counseling courses; requiring the Department of Housing and Community
6 Development to establish certain criteria and review certain applications for
7 certain counselors; requiring the Department of Housing and Community
8 Development to review and approve certain counseling courses; establishing
9 certain requirements for the content of certain counseling courses; providing
10 that certain individuals have an unconditional right to rescind certain contracts
11 for the sale of real property within a certain time; requiring the Secretary of
12 Housing and Community Development to adopt certain regulations; providing
13 that the Secretary of Housing and Community Development may delegate
14 certain authority; requiring a certain disclosure to be made in a contract for the
15 sale of certain real property; and generally relating to the Maryland Home
16 Ownership Counseling Program.

17 BY adding to
18 Article 83B - Department of Housing and Community Development
19 Section 2-1601 through 2-1606, inclusive, to be under the new subtitle "Subtitle
20 16. Maryland Home Ownership Counseling Program"
21 Annotated Code of Maryland
22 (1998 Replacement Volume and 2000 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article - Real Property
25 Section 10-702
26 Annotated Code of Maryland
27 (1996 Replacement Volume and 2000 Supplement)

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
29 MARYLAND, That the Laws of Maryland read as follows:

1 **Article 83B - Department of Housing and Community Development**

2 SUBTITLE 16. MARYLAND HOME OWNERSHIP COUNSELING PROGRAM.

3 2-1601.

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.

6 (B) "APPLICANT FOR FINANCIAL ASSISTANCE" MEANS AN INDIVIDUAL WHO:

7 (1) HAS NEVER OWNED RESIDENTIAL REAL PROPERTY THAT HAS BEEN
8 THE INDIVIDUAL'S PRINCIPAL RESIDENCE; AND9 (2) INDIVIDUALLY OR JOINTLY, APPLIES FOR FINANCIAL ASSISTANCE
10 UNDER A HOME OWNERSHIP ASSISTANCE PROGRAM ADMINISTERED BY THE STATE
11 OR A LOCAL JURISDICTION.

12 (C) "CERTIFICATE" MEANS A HOME OWNERSHIP COUNSELING CERTIFICATE.

13 (D) "PROGRAM" MEANS THE MARYLAND HOME OWNERSHIP COUNSELING
14 PROGRAM ESTABLISHED UNDER THIS SUBTITLE.

15 2-1602.

16 (A) THERE IS A MARYLAND HOME OWNERSHIP COUNSELING PROGRAM.

17 (B) THE PURPOSE OF THE PROGRAM IS TO EDUCATE FIRST TIME HOME
18 BUYERS ABOUT THEIR RIGHTS AND RESPONSIBILITIES AS REAL PROPERTY
19 PURCHASERS.

20 2-1603.

21 (A) FOR THE PURCHASE OF REAL PROPERTY IN BALTIMORE CITY WITH AN
22 ASSESSED VALUE OF \$100,000 OR LESS, AN APPLICANT FOR FINANCIAL ASSISTANCE
23 SHALL SUCCESSFULLY COMPLETE A HOME OWNERSHIP COUNSELING COURSE.24 (B) AN APPLICANT FOR FINANCIAL ASSISTANCE WHO SUCCESSFULLY
25 COMPLETES A HOME OWNERSHIP COUNSELING COURSE UNDER THE PROGRAM
26 SHALL RECEIVE A HOME OWNERSHIP COUNSELING CERTIFICATE.27 (C) AN APPLICANT FOR FINANCIAL ASSISTANCE SHALL PROVIDE A COPY OF
28 THE CERTIFICATE TO A PROSPECTIVE VENDOR OF REAL PROPERTY OR THE
29 VENDOR'S AGENT PRIOR TO CLOSING.

30 2-1604.

31 (A) (1) THE DEPARTMENT SHALL ESTABLISH CRITERIA AND REVIEW
32 APPLICATIONS FOR QUALIFICATION AS A HOME OWNERSHIP COUNSELOR.

1 (2) A HOME OWNERSHIP COUNSELOR MAY NOT BE AFFILIATED WITH A
2 REAL ESTATE BROKER, MORTGAGE BROKER, OR MORTGAGE LENDER.

3 (3) A HOME OWNERSHIP COUNSELOR ACTING IN GOOD FAITH HAS
4 IMMUNITY FROM SUIT FOR ANY ERROR OR OMISSION IN THE CONTENT OF THE
5 COURSE OF COUNSELING.

6 (B) (1) THE DEPARTMENT SHALL REVIEW, AND AT ITS DISCRETION
7 APPROVE, THE FORM, SUBSTANCE, AND SUBJECT MATTER OF ALL HOME OWNERSHIP
8 COUNSELING COURSES.

9 (2) A HOME OWNERSHIP COUNSELING COURSE UNDER THE PROGRAM
10 SHALL CONSIST OF:

11 (I) AT LEAST ONE COUNSELING SESSION BEFORE THE APPLICANT
12 FOR FINANCIAL ASSISTANCE ENTERS INTO A CONTRACT FOR THE SALE OF REAL
13 PROPERTY; AND

14 (II) AT LEAST ONE COUNSELING SESSION AFTER THE APPLICANT
15 FOR FINANCIAL ASSISTANCE ENTERS INTO A CONTRACT FOR THE SALE OF REAL
16 PROPERTY.

17 (3) A HOME OWNERSHIP COUNSELING COURSE UNDER THE PROGRAM
18 SHALL INCLUDE A REVIEW OF:

19 (I) ALL DOCUMENTS RELATING TO THE ABILITY OF THE
20 APPLICANT FOR FINANCIAL ASSISTANCE TO PURCHASE REAL PROPERTY;

21 (II) THE VALUE AND CONDITION OF THE PROPERTY TO BE
22 PURCHASED;

23 (III) THE TERMS OF THE PROPOSED FINANCING; AND

24 (IV) ANY OTHER SUBJECT DETERMINED BY THE DEPARTMENT TO
25 BE NECESSARY TO CARRY OUT THE PURPOSE OF THIS SUBTITLE.

26 2-1605.

27 (A) AN APPLICANT FOR FINANCIAL ASSISTANCE WHO HAS RECEIVED A
28 CERTIFICATE UNDER THIS SUBTITLE, ACTING IN GOOD FAITH, HAS AN
29 UNCONDITIONAL RIGHT, UPON WRITTEN NOTICE TO THE VENDOR OR VENDOR'S
30 AGENT:

31 (1) TO RESCIND A CONTRACT FOR THE SALE OF REAL PROPERTY WITHIN
32 THREE BUSINESS DAYS AFTER THE DATE OF THE CERTIFICATE; AND

33 (2) TO THE IMMEDIATE RETURN OF ANY DEPOSITS MADE ON ACCOUNT
34 OF THE CONTRACT.

1 (B) AN APPLICANT FOR FINANCIAL ASSISTANCE WHO RESCINDS A CONTRACT
2 UNDER SUBSECTION (A) OF THIS SECTION SHALL PROVIDE A COPY OF THE
3 CERTIFICATE TO THE VENDOR OR VENDOR'S AGENT.

4 2-1606.

5 (A) THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THE
6 PROVISIONS OF THIS SUBTITLE.

7 (B) IN BALTIMORE CITY, THE SECRETARY MAY DELEGATE THE
8 ADMINISTRATION OF THE PROGRAM TO THE BALTIMORE CITY DEPARTMENT OF
9 HOUSING AND COMMUNITY DEVELOPMENT.

10 **Article - Real Property**

11 10-702.

12 (a) (1) This section applies only to single family residential real property
13 improved by four or fewer single family units.

14 (2) This section does not apply to:

15 (i) The initial sale of single family residential real property:

16 1. That has never been occupied; or

17 2. For which a certificate of occupancy has been issued
18 within 1 year before the vendor and purchaser enter into a contract of sale;

19 (ii) A transfer that is exempt from the transfer tax under § 13-207
20 of the Tax - Property Article, except land installment contracts of sale under §
21 13-207(a)(11) of the Tax - Property Article and options to purchase real property
22 under § 13-207(a)(12) of the Tax - Property Article;

23 (iii) A sale by a lender or an affiliate or subsidiary of a lender that
24 acquired the real property by foreclosure or deed in lieu of foreclosure;

25 (iv) A sheriff's sale, tax sale, or sale by foreclosure, partition, or by
26 court appointed trustee;

27 (v) A transfer by a fiduciary in the course of the administration of a
28 decedent's estate, guardianship, conservatorship, or trust;

29 (vi) A transfer of single family residential real property to be
30 converted by the buyer into a use other than residential use or to be demolished; or

31 (vii) A sale of unimproved real property.

32 (b) (1) A vendor of single family residential real property shall complete and
33 deliver to each purchaser:

1 (i) A written residential property condition disclosure statement on
2 a form provided by the State Real Estate Commission; or

3 (ii) A written residential property disclaimer statement on a form
4 provided by the State Real Estate Commission.

5 (2) The State Real Estate Commission shall develop by regulation a
6 single standardized form that includes the residential property condition disclosure
7 and disclaimer statements required by this subsection.

8 (c) The residential property disclaimer statement shall state that:

9 (1) The vendor makes no representations or warranties as to the
10 condition of the real property or any improvements on the real property; and

11 (2) The purchaser will be receiving the real property "as is", with all
12 defects that may exist, except as otherwise provided in the contract of sale of real
13 property.

14 (d) (1) The residential property disclosure statement shall disclose those
15 items that, to carry out the provisions of this section, the State Real Estate
16 Commission requires to be disclosed about the physical condition of the property.

17 (2) The disclosure form shall include a list of defects or information of
18 which the vendor has actual knowledge in relation to the following:

19 (i) Water and sewer systems, including the source of household
20 water, water treatment systems, and sprinkler systems;

21 (ii) Insulation;

22 (iii) Structural systems, including the roof, walls, floors, foundation,
23 and any basement;

24 (iv) Plumbing, electrical, heating, and air conditioning systems;

25 (v) Infestation of wood-destroying insects;

26 (vi) Land use matters;

27 (vii) Hazardous or regulated materials, including asbestos,
28 lead-based paint, radon, underground storage tanks, and licensed landfills; and

29 (viii) Any other material defects known to the vendor.

30 (3) The disclosure form shall contain:

31 (i) A notice to prospective purchasers and vendors that the
32 prospective purchaser or vendor may wish to obtain professional advice about or an
33 inspection of the property;

1 (ii) A notice to prospective purchasers that disclosure by the seller
2 is not a substitute for an inspection by an independent home inspection company, and
3 that the purchaser may wish to obtain such an inspection;

4 (iii) FOR REAL PROPERTY IN BALTIMORE CITY WITH AN ASSESSED
5 VALUE OF \$100,000 OR LESS, A NOTICE TO PROSPECTIVE PURCHASERS OF THE
6 RIGHTS AND REQUIREMENTS OF ARTICLE 83B, TITLE 2, SUBTITLE 16 OF THE CODE,
7 INCLUDING:

8 1. THE REQUIREMENT THAT AN APPLICANT FOR FINANCIAL
9 ASSISTANCE, AS DEFINED UNDER ARTICLE 83B, § 2-1601(B) OF THE CODE
10 SUCCESSFULLY COMPLETE A HOME OWNERSHIP COUNSELING COURSE; AND

11 2. THE RIGHT OF A PROSPECTIVE PURCHASER TO RESCIND
12 THE CONTRACT OF SALE UNDER ARTICLE 83B, § 2-1605 OF THE CODE;

13 (IV) A notice to purchasers that the information contained in the
14 disclosure statement is the representation of the vendor and is not the representation
15 of the real estate broker or salesperson, if any; and

16 [(iv)] (V) A notice to purchasers that the information contained in
17 the disclosure statement is not a warranty by the vendor as to:

18 1. The condition of the property of which the vendor has no
19 actual knowledge; or

20 2. Other conditions of which the vendor has no actual
21 knowledge.

22 (4) The vendor is not required to undertake or provide an independent
23 investigation or inspection of the property in order to make the disclosures required
24 by this section.

25 (e) (1) Except as provided in paragraphs (2) and (3) of this subsection, the
26 vendor shall deliver the completed disclosure or disclaimer statement required by this
27 section to the purchaser on or before entering into a contract of sale by the vendor and
28 the purchaser.

29 (2) The disclosure or disclaimer statement shall be delivered to each
30 purchaser before the execution of the contract of sale by the purchaser in the case of
31 a land installment contract, as defined in § 10-101 of this title.

32 (3) The disclosure or disclaimer statement shall be delivered to each
33 purchaser before the execution by the purchaser of an option to purchase agreement
34 or a lease agreement containing an option to purchase provision.

35 (4) At the time the disclosure or disclaimer statement is delivered, each
36 purchaser shall date and sign a written acknowledgment of receipt, which shall be
37 included in or attached to the contract of sale.

1 (f) [A] EXCEPT AS PROVIDED UNDER SUBSECTION (D)(3)(III) OF THIS
2 SECTION, A purchaser who receives the disclosure or disclaimer statement on or
3 before entering into the contract of sale does not have the right to rescind the contract
4 of sale based upon the information contained in the statement.

5 (g) (1) A purchaser who does not receive the disclosure or disclaimer
6 statement on or before entering into the contract of sale has the unconditional right,
7 upon written notice to the vendor or vendor's agent:

8 (i) To rescind the contract of sale at any time before the receipt of
9 the disclosure or disclaimer statement or within 5 days following receipt of the
10 disclosure or disclaimer statement; and

11 (ii) To the immediate return of any deposits made on account of the
12 contract.

13 (2) A purchaser's right to rescind the contract of sale under this
14 subsection terminates if not exercised:

15 (i) Before making a written application to a lender for a mortgage
16 loan, if the lender discloses in writing at or before the time application is made that
17 the right to rescind terminates on submission of the application; or

18 (ii) Within 5 days following receipt of a written disclosure from a
19 lender who has received the purchaser's application for a mortgage loan, if the
20 lender's disclosure states that the purchaser's right to rescind terminates at the end
21 of that 5-day period.

22 (h) (1) A disclosure statement made under this section does not constitute a
23 warranty by the vendor as to:

24 (i) The condition of the property of which the vendor has no actual
25 knowledge; or

26 (ii) Other conditions of which the vendor has no actual knowledge.

27 (2) A vendor is not liable for an error, inaccuracy, or omission in a
28 disclosure statement made under this section if the error, inaccuracy, or omission was
29 based upon information that was:

30 (i) Not within the actual knowledge of the vendor;

31 (ii) Provided to the vendor by a unit or instrumentality of the State
32 government or of a political subdivision; or

33 (iii) Provided to the vendor by a report or opinion prepared by a
34 licensed engineer, land surveyor, geologist, wood-destroying insect control expert,
35 contractor, or other home inspection expert, dealing with matters within the scope of
36 the professional's license or expertise.

1 (i) (1) A report or opinion prepared by an expert shall satisfy the
2 requirement of subsection (h)(2)(iii) of this section if the information is provided to the
3 vendor pursuant to a written or oral request for the information.

4 (2) In responding to a request for information, the reporting party:

5 (i) May indicate, in writing, an understanding that the information
6 provided will be used in fulfilling the requirements of this section; and

7 (ii) If so indicating, shall indicate the required disclosures, or parts
8 of required disclosures, to which the information being provided is applicable.

9 (3) If the reporting party provides the statement under paragraph (2)(ii)
10 of this subsection, the reporting party is not responsible for any items of information,
11 or parts of items, other than those expressly set forth in the statement.

12 (j) (1) The rights of a purchaser under this section may not be waived in the
13 contract of sale and any attempted waiver is void.

14 (2) Any rights of the purchaser to terminate the contract provided by this
15 section are waived conclusively if not exercised before:

16 (i) Closing or occupancy by the purchaser, whichever occurs first,
17 in the event of a sale; or

18 (ii) Occupancy, in the event of a lease with option to purchase.

19 (k) Each contract of sale shall include a conspicuous notice advising the
20 purchaser of the purchaser's rights as set forth in this section.

21 (l) (1) The real estate licensee representing a vendor of residential real
22 property as the listing broker has a duty to inform the vendor of the vendor's rights
23 and obligations under this section.

24 (2) The real estate licensee representing a purchaser of residential real
25 property, or, if the purchaser is not represented by a licensee, the real estate licensee
26 representing an owner of residential real estate and dealing with the purchaser, has
27 a duty to inform the purchaser of the purchaser's rights and obligations under this
28 section.

29 (3) If a real estate licensee performs the duties specified in this
30 subsection, the licensee:

31 (i) Shall have no further duties under this section to the parties to
32 a residential real estate transaction; and

33 (ii) Is not liable to any party to a residential real estate transaction
34 for a violation of this section.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
36 October 1, 2001.

